

MEETING OF THE BOARD OF CREDIT UNION ADVISORS

January 28, 2010

1:00 pm

Utah Department of Financial Institutions
324 South State Street, Suite 201
Salt Lake City Utah

Minutes

BOARD MEMBERS PRESENT:

Dennis Hymas, Arleen Childs, Brenda VanHoorn, and Sandra Garcia

DEPARTMENT OF FINANCIAL INSTITUTIONS STAFF PRESENT:

Paul Allred, Commissioner Ed Leary, Orla Beth Peck, Eva Rees, and Sonja Long

OTHERS PRESENT:

Stephen Nielsen, Heather Line, and Scott Simpson – Utah League of Credit Unions; Steve Melgar, Treasury Credit Union; Brent Holmes, Hercules Credit Union.

1. Call Meeting to order – Chairman Dennis Hymas

2. Elect new chairman and vice-chair –

Arleen Childs nominated Dennis for chairman, Sandra Garcia seconded the motion. It was unanimous among the board members. Sandra Garcia nominated Brenda VanHoorn as vice-chair, Arleen Childs seconded. It was unanimous.

3. Minutes –

There are two sets of minutes to approve, from the October 22, 2009 meeting and from the July 16, 2009 meeting. Brenda VanHoorn made the motion to approve those minutes, Arleen Childs seconded, it was unanimous.

4. Preservation of Utah Credit Unions and criteria for closing a credit union – Orla Beth Peck

Dennis explained that he requested this item because they are all concerned about the future of financial institutions in Utah and particularly credit unions and what is happening to them.

Orla Beth explained that after 1151 the NCUA Prompt Corrective Action became part the credit union law. Requirements for PCA, 7% capital is the threshold at which you are well capitalized. If you fall below 7% you are in an informal version of PCA where you need to be making 1/10th of 1% of your assets to build your capital back up. If you fall below 6% then there is a formal net worth restoration plan that is required. As you drop in capital your rating goes from well capitalized to adequately capitalized to undercapitalized to significantly undercapitalized. If you fall 2% then you are critically undercapitalized and as Orla Beth understands it, at that point the NCUA has 90 days to do something. That is kind of how that process works.

If it is a voluntary merger, we don't feel that it would be our job or responsibility to stop it if two credit unions choose to merger. If it is a supervisory merger, if there is assistance being required, the state would have to take possession of the credit union and turn it over to the NCUA as receiver and bid would have gone out and it would go to the lowest bid. The NCUA are indicating that there have been a number of credit union failures, forced mergers or supervisory actions and there are running out of credit unions to merge, particularly if it is a large credit union.

As far as trying to preserve credit unions, Orla Beth says that she knows the NCUA has a program for trying to assist small credit unions, the League and some of the larger credit unions can provide some assistance. She isn't aware of what a regulator can do to help preserve credit unions.

Dennis asked if there was any leeway or work around solutions for a credit union that finds themselves undercapitalized? There was a brief discussion of some specific situations.

Commissioner Leary said that the short answer with regard to how much latitude there is, it is clearly his objective as commissioner to do everything he can to give the credit union or bank every opportunity to save itself, to try

and come up with any answer that meets the requirements. He talked about a few instances that he was able to mention.

Orla Beth also discussed a couple of things that might trigger a merger of a smaller credit union; new regulations and long time manager wants to retire.

Commissioner Leary said that part of the coverage from the media. Some of the calls that the department has received ask about the safety of deposits in Utah banks and credit unions. The department did a press release on the deposit insurance. It has been on our website for some time. We have made sure that the links on the website are current. Commissioner Leary talked about the release.

5. Funds availability – Eva Rees

Sandra Garcia asked for clarification on two items; Eva will cover the SAFE Act first. The Secure and Fair Enforcement (SAFE) Act which is the mortgage licensing act requires that loan originators in depository institutions will have to register under FFIEC, the Federal Financial Institutions Exam Council. They are currently working on what they are going to do for registration. It looks they are going to use the Nationwide Mortgage Licensing System that CSBS developed. However, rather than a licensing scheme where you have to take pre-licensing education, take a test, get background checks and all of that, depository institution loan originators will simply register through the system. The Act requires that once FFIEC comes up with registration requirements that they give the depository institution six months to register. At the point, FFIEC does not have the registration requirements in place, so we are still kind of in a wait and see mode. Eva thinks that it will probably be somewhere near the end of 2010. As soon as the department knows, we will get that out to all of our institutions.

The other question was related to changes to Reg. CC. This is as of January 5, 2010, Eva gave everyone a copy. They are consolidating Federal Reserve check processing centers into one because so many things are done electronically now that the number of checks has gone way down and they don't need as many processing centers. That is going to make all checks local. Your hold times will change. Nothing will change on any of the exception holds or the cash or government checks. Everything will now be considered local. This is the final rule that she gave as her handout, she gave

a summary on the last page as to what the credit unions will have to do to comply. You will need to notify your customers that your hold times have changed and this Reg requires that you do it within 30 days after implementing the change. The change becomes effective February 1, 2010. You have until February 27 to implement the change. You will also probably need to change your disclosures on new accounts, you may need to make some modifications to your policies, and you may need to make some computer system changes and your signs at the teller line.

Sandra asked about the debit card opt-in and opt-out. She said that she wasn't clear about it. She asked if the member opts out then she cannot charge them an NSF fee. Eva said that you cannot put them into NSF if they opt-out. That actually goes into effect sometime in August. Heather said that the League will be doing some updates on this as it gets closer.

6. Legislative update – Paul Allred

Paul was excited to report that the Legislature is in session. The department is tracking three bills:

HB15 – Representative Dunnigan's bill to amend our Chapter 23 on Deferred Deposit Lenders. He briefly went through the key points. This bill passed the House yesterday and is off to the Senate. The industry supports this bill.

HB191 – Representative Black's bill to amend the title as well. She is trying to require that the industry report the total number of and total dollar amount of deferred deposit loans that are extended during a certain period. The industry is opposed to this bill.

HB241 – Representative Harper's bill that would require check cashers to require photo id before they cash a check and they make a good faith effort to confirm that the photo id is legitimate.

Paul asked Scott Simpson if he was aware of anything else. He said that Representative Harper has another bill dealing with foreclosures that could be problematic. He said that the League is filing a bill that relates to car dealers and some other practices that have been expensive. He went on to explain that lien filings have been a problem.

There was a brief discussion of some other items that might come up in the session.

7. Miscellaneous updates – Orla Beth Peck

Orla Beth will be sending out an email message about the message that she forwarded from NASCUS. There will be three webinars coming up starting this Thursday going over changes to Reg. Z and RESPA. The department has signed up for those webinars so we have space if you want to send a representative.

The department was recently re-accredited by National Association of State Credit Union Supervisors and Conference of State Bank Supervisors. They did speak to Dennis as part of that re-accreditation process. It was a joint process this year. That accreditation lasts for 5 years.

The comment period for the revision to the Corporate rule is ending soon. Some things that Orla Beth understands are in the revised rule; there will no longer be a three tiered corporate system, US Central will still exist but it will be a regular corporate credit union. One of the things that NCUA talks about is re-capitalizing the corporate system. Orla Beth asked if anyone had any feedback on that idea. A discussion was held on that idea.

8. Other business

9. Date of upcoming meeting – April 29, 2010 at 1:00 pm

10. Adjourn